

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**IN RE: NATIONAL PRESCRIPTION  
OPIATE LITIGATION**

THIS DOCUMENT RELATES TO:

*Track Seven*

**MDL No. 2804  
Case No. 17-md-2804  
Judge Dan Aaron Polster**

**[PROPOSED] ORDER GRANTING KROGER DEFENDANTS' *DAUBERT* MOTION  
TO EXCLUDE PORTIONS OF ANNA LEMBKE'S, DAVID COURTWRIGHT'S, AND  
JAMES RAFALSKI'S OPINIONS THAT VIOLATE PRIOR COURT ORDERS**

For good cause shown, The Kroger Defendants' *Daubert* Motion to Exclude Portions of Anna Lembke's, David Courtwright's, and James Rafalski's Opinions is GRANTED.

The opinions of these experts as proffered by Plaintiff violate prior rulings by this Court. Accordingly, Dr. Lembke's and Dr. Courtwright's opinions on a cause-and-effect relationship between Kroger's allegedly false and misleading marketing efforts and an actual increase in the supply of prescription opioids or harms allegedly caused by those opioids are excluded. Dr. Lembke's opinion that Kroger failed to provide its pharmacists with sufficient time, resources, or incentives to investigate red flags is excluded. Any opinion proffered by Mr. Rafalski that contains legal conclusions or interpretations of law is excluded.

**IT IS SO ORDERED.**

**Date:** \_\_\_\_\_

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**DAN AARON POLSTER  
UNITED STATES DISTRICT JUDGE**